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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/145,167	09/01/1998	IRENE HU FERNANDEZ	FERN-P004	5652
22877	7590	07/13/2004	EXAMINER	
FERNANDEZ & ASSOCIATES LLP 1047 EL CAMINO REAL SUITE 201 MENLO PARK, CA 94025			ROBINSON BOYCE, AKIBA K	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/145,167

Applicant(s)

FERNANDEZ ET AL.

Examiner

Akiba K Robinson-Boyce

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*NW*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Status of Claims*

1. Due to communications filed 4/5/04, the following is a final office action. Claims 1-20 are pending in this application and have been examined on the merits. Claims 1, 9 and 19 have been amended. The previous rejection has been withdrawn and the following rejection reflects the claims as amended.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S. C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-8, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Levergood et al. (US Patent 5,708,780).

As per claim 1, Levergood et al. discloses:

a method for enhancing on-line commerce comprising the steps of, (Abstract, lines 1-4):

determining by a server an attribute of a client, (Col. 115, lines 9-10 and 15-16), classifying the client in a set according to the attribute, (Col. 115, lines 33-35);

initiating before a request by any client in such set a message by the server, (Col. 9, lines 20-24, [shows an embodiment where the client is not

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submitting a request, but is responding to a prompt, which replaces the client's "dial" command. Once the client responds to the prompt, Message 1 is initiated]).

wherein the message is initiated adaptively or dynamically according to the attributes of a plurality of clients classified in the set, the classification being contextually mapped with the initiated message by comparing attributes to classify each client in the set the set classification being identified in group registry, (Col. 6, line 58-Col. 7, line 14, preferred account database containing a user profile], Col. 10, lines 24-36, (shown that user is classified in the gold user's group]), the client request comprising an online search query or auction bid, (Col. 9, lines 20-24, [shown that a client uses a form page implemented with a conventional browser to provide an identifier to make the request], whereby a sale or transaction message may be provided to one or more clients classified in the set in response to the client request, (Col. 9, line 41-Col. 10, line 1, [sends client a REDIRECT message after the user submits the request], and one or more sensed client attributes, (col. 10, lines 24-36, [shows users belonging to the gold group can access the priority gold page], in order to bill or charge the client appropriately for the search query or auction bid, (Col. 117, lines 45-53, claim 39, [shows that user identified with the session identifier is charged for access to the document])).

As per claim 2, Levergood et al. discloses:

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the attribute comprises a monitored location, time value, selection, condition, or affiliation associated with the client, (Col. 115, lines 17-18, [time value])

As per claims 4, 5, Levergood et al. discloses:

the attribute is provided in a memory, and the client is classified by comparing the attribute with another attribute stored in the memory/the client is classified in the set according to a determined substantial similarity, (Col. 115, lines 9-10, lines 32-34).

Levergood et al. doesn't specifically disclose determining a second attribute of a second or third client, however, this feature is inherent with the system because in a client-server environment, multiple clients are connected to a server and are interchangeable. The client that has interactions with the server can be substituted for another client in the network.

As per claims 6 and 7, Levergood et al. discloses:

determining by the server a second attribute of the client, (Col. 115, lines 17-18);

classifying the client in a second set according to the second attribute, (Col. 115, lines 32-34);

initiating before a request by any client in such second set/set a second message by the server to one or more clients classified in the second set, (Col. 3, lines 16-20, Col. 9, lines 20-24, [shows an embodiment where the client is not submitting a request, but is responding to a prompt, which replaces the client's

"dial" command. Once the client responds to the prompt, Message 1 is initiated)).

Levergood et al. doesn't specifically disclose determining a second attribute of a second or third client, however, this feature is inherent with the system because in a client-server environment, multiple clients are connected to a server and are interchangeable. The client that has interactions with the server can be substituted for another client in the network.

As per claims 19 and 20, Levergood et al. discloses:

receiving an attribute signal from a first node, (Col. 115, lines 9-10);

transmitting the attribute signal to a second node for classifying the first node in a set according to the attribute signal; (Col. 115, lines 32-34);

receiving a message signal from the second node /transmitting the message signal to one or more nodes classified in the set, the message signal being initiated before a message request from the first node adaptively or dynamically according to a plurality of attribute signals and identified in a group registry, (Col. 9, lines 20-24, [shows an embodiment where the client is not submitting a request, but is responding to a prompt, which replaces the client's "dial" command. Once the client responds to the prompt, Message 1 is posted to the URL specified by the form page, therefore, Message 1 is transmitted to the nodes classified by the URL]), the message request comprising an online search query or auction bid, (Col. 9, lines 20-24, [shown that a client uses a form page implemented with a conventional browser to provide an identifier to make the request], whereby a sale or transaction message may be provided to one or

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more nodes classified in the set in response to the message request, (Col. 9, line 41-Col. 10, line 1, [sends client a REDIRECT message after the user submits the request], and one or more sensed node attributes, (col. 10, lines 24-36, [shows users belonging to the gold group can access the priority gold page], in order to bill or charge the first node appropriately for the search query or auction bid, (Col. 117, lines 45-53, claim 39, [shows that user identified with the session identifier is charged for access to the document])).

Levergood et al. doesn't specifically disclose determining a second attribute of a second or third client, however, this feature is inherent with the system because in a client-server environment, multiple clients are connected to a server and are interchangeable. The client that has interactions with the server can be substituted for another client in the network.

As per claim 8, Levergood et al. discloses:

the message comprises a commercial offering, an application program, a still image, or a video stream, (Abstract, lines 4-7).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Levergood et al, in further view of Hoffberg et al. (US Patent 5,774,357).

As per claim 3, Levergood et al. fails to teach the following, however Hoffberg et al. discloses:

the attribute is provided by one or more client sensor, (Fig. 26, [2602], Col. 95, lines 64-66).

It would have been obvious to one of ordinary skill in the art to provide the attributes by client sensors because this is the type of device needed to provide the impulse necessary for the detection of client characteristics.

6. Claims 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffberg et al. (US Patent 5,774,357) in further view of Levergood et al. (US Patent 5,708,780)

As per claims 9 and 13, Hoffberg et al. discloses:

an interface, (Abstract, line 4),

a processor, (Col. 95, line 61-63);

and a sensor, (Col. 95, line 64-66);

wherein the interface is accessible by a server coupled to a network, (Col. 84, lines 8-25 [control]), whereby the processor may provide the network access to a signal generated by the sensor; the interface being classifiable in a set according to the signal, the interface receiving a network signal according to the classified set, the network signal being initiated before a client message request adaptively or dynamically...the classification being contextually mapped with the network signals and identified in a group registry, (Col. 25, lines 46-55 and Col. 26, lines 57-67, Col. 9, lines 20-24, [shows an embodiment where the client is not submitting a request, but is responding to a prompt, which replaces the client's



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"dial" command. Once the client responds to the prompt, Message 1 is initiated)), the client message request comprising an online search query or auction bid, (Col. 9, lines 20-24, [shown that a client uses a form page implemented with a conventional browser to provide an identifier to make the request], whereby a sale or transaction message may be provided to one or more clients classified in the set in response to the client message request, (Col. 9, line 41-Col. 10, line 1, [sends client a REDIRECT message after the user submits the request], and one or more sensed client attributes, (col. 10, lines 24-36, [shows users belonging to the gold group can access the priority gold page], in order to bill or charge the client appropriately for the search query or auction bid, (Col. 117, lines 45-53, claim 39, [shows that user identified with the session identifier is charged for access to the document])).

Hoffberg et al. doesn't specifically disclose accessing a second signal generated by the sensor, however, this feature is inherent with the system because the user characteristics are determined by signals generated by the client and since there is more than one characteristic, more than one signal will be generated.

Hoffberg, et al fails to teach the following, however Levergood, et al discloses:  
according to a plurality of generated sensor signals associated with the classified set, (Col. 6, line 58-Col. 7, line 14, Col. 10, lines 24-36).

It would have been obvious to one of ordinary skill in the art to incorporate the idea of associating the classified set into adaptively or dynamically directing

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the network signal according to the generated sensor signals because in order to direct these type of signals correctly and efficiently, they need to be classified or grouped in a specific order.

As per claim 10, Hoffberg et al. discloses:

the generated signal represents...a-time value, (Col. 23, lines 51-53, [frequency]).

As per claims 11 and 12, Hoffberg et al. discloses:

the generated signal is stored in a database and the interface is classified by comparing the generated signal with another generated signal stored in the database/the generated signal is compared with the other generated signal to determine a substantial similarity or recognizable pattern there between, (Col. 95, lines 1-25).

As per claim 14, Hoffberg et al. discloses:

the network signal comprises a commercial offering, an application program, a still image, or a video stream, (Abstract, lines 2-4, [application program]).

As per claim 15, both Levergood, et al and Hoffberg et al. fail to disclose:

the sensor comprises a global positioning satellite system (GPS) receiver for determining a position of the client.

Official notice is taken that it is old and well known in the client-server art to have a sensor that comprises a GPS. It would have been obvious to one of ordinary skill in the art to have a sensor that comprises a GPS because it is

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necessary for one to locate the position of the client in order to determine attributes since this information can change according to location.

As per claim 16, Hoffberg et al. fails to disclose the following, however Levergood et al. discloses:

the interface further comprises a web browser application for accessing the network, (Abstract, lines 1-7).

It would have been obvious to one of ordinary skill in the art to have a web browser on an interface because this is the most common type of application used in a client-server environment that makes system interaction and network access easier.

As per claim 17, both Levergood et al. and Hoffberg et al. fail to teach the following:

the network access through the web browser application is secured by the sensor determining a genetic identification of a user of the web browser application.

Official notice is taken that it is old and well known in the client-server art for the web browser to determine a genetic identification of a user. It would have been obvious to one of ordinary skill in the art for the web browser to determine a genetic identification of a user for marketing and marketing analysis purposes.

As per claim 18, Hoffberg et al. fails to disclose the following:

the interface sends a transaction signal in response to the network signal.

Official notice is taken that it is old and well known in the client-server art to send a transaction signal in response to the network signal. It would have

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been obvious to one of ordinary skill in the art to send a transaction signal in response to the network signal because this is how one can determine if the attributes were successfully received.

### ***Response to Arguments***

7. Applicant's arguments filed 4/5/04 have been fully considered but they are not persuasive.

As per claims 1-20, the applicant argues that prior art does not disclose "...the client request compris[es] an online search query or auction bid, whereby a sale or transaction message may be provided to one or more clients classified in the set in response to the client request and one or more sensed client attributes in order to bill or charge the client appropriately for the search query or auction bid." However, Levergood et al discloses these limitations as shown in the above rejection. In Col. 9, lines 20-24, Levergood et al shows that a client uses a form page implemented with a conventional browser to provide an identifier to make the request. Since this type of request results in the return of a page linked to a URL, this shows that this request is associated with an online search query. In addition, in Col. 9, line 41-Col. 10, line 1, Levergood et al discloses that a REDIRECT message is sent to the client after the request is submitted. This REDIRECT message is analogous to the transaction message. Further, client attributes are shown in col. 10, lines 24-36, where users shown to belong to the gold group can access the priority gold page (since they have gold users group attributes. Finally, in Col. 117, lines 45-53, claim 39, Levergood et al shows that user identified with the session identifier is charged for access to the

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document, which is analogous to billing or charging the client appropriately for the search query since the user must submit a search query in order to access the document.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 703-305-1340. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax

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phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



A. R. B.  
July 6, 2004



TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600